

## **REMARKS**

Applicants reply to the Final Office Action dated September 27, 2010 within two months. The Office Action states that Claims 1-11 were pending in the application and the Examiner rejects claims 1-11. However, Applicants wish to clarify that claims 2 and 9 were previously canceled. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter is entered with these amendments. Applicant respectfully requests reconsideration of this application.

**Importantly, Applicants respectfully submit that similar claims have been allowed in U.S. Application Serial Nos. 10,709,701 (Patent No. 7,752,102 ), 10/709,702, and 10/709/703 (Patent No. 7,797,208).**

### **Priority of Application**

Applicants acknowledge the Examiner's statement on page 2 regarding the priority of the application. Applicants do not concede that the priority date for these claims is 8/4/2004 and do not concede that the cited references are indeed prior art with respect to this application. Applicants also reserve the option to antedate the cited references. However, Applicants submit that, pursuant to the remarks presented below, the references fail to render the claims obvious and it is therefore unnecessary at this time to contest such priority issues.

### **Rejections under 35 U.S.C § 103**

In a previous action, the Examiner rejected claims 1-6 under 35 U.S.C. § 103(a), as being unpatentable over Vetter, U.S. Patent No. 5,716,211 ("Vetter") in view of King, U.S. Patent No. 5,319,542 ("King"), and in view of Wardin, U.S. Publication No. 2001/0011240 ("Wardin"). In the instant Office Action, the Examiner now states that these rejections are overcome by Applicants reply and amendments submitted on 7/16/10.

In the current Office Action, the Examiner rejects claims 1, 3-6 and 10-11 under 35 U.S.C. § 103(a), as being unpatentable over Wolfberg, U.S. Patent No. 5,745,706 in view of King and in view of Wardin. The Examiner rejects claim 6 under 35 U.S.C. § 103(a), as being unpatentable over Wolfberg in view of King and in further view of Wardin and in further view of Hendrick, U.S. Publication No. 2005/0077348 ("Hendrick"). The Examiner rejects claim 7

under 35 U.S.C. § 103(a), as being unpatentable over Wolfberg in view of King and in further view of Wardin and in further view of U.S. Patent No. 6,010,239 (“Hardgrave”). The Examiner rejects claim 8 under 35 U.S.C. § 103(a), as being unpatentable over Wolfberg in view of King and in further view of Wardin and in further view of Foladare, U.S. Patent No. 5,914,472 (“Foladare”). The Examiner rejects claims 1-5 and 10-11 under 35 U.S.C. § 103(a), as being unpatentable over Official Notice in view of King. The Examiner rejects claim 6 under 35 U.S.C. § 103(a), as being unpatentable over Official Notice in view of Hendrick. The Examiner rejects claim 7 under 35 U.S.C. § 103(a), as being unpatentable over Official Notice in view of Hardgrave. The Examiner rejects claim 8 under 35 U.S.C. § 103(a), as being unpatentable over Official Notice in view of Foladare. Applicants traverse these rejections. Applicants present claim amendments to simply conform the claims to 101/Bilski best practices, but such amendments are not responsive to any rejections in this Office Action, so the amendments are unrelated to the pending rejections.

Wolfberg discloses a system for managing an investment and spending account, “so as to achieve selected guidelines for spending flexibility and investment returns.” Abstract. The Wolfberg system includes a monitoring program that can “review incoming transactions and monitor the effect of those transactions on each account.” Col. 8, lines 10-12, internal references omitted. **Significantly, Wolfberg fails to disclose determining a payment hierarchy that minimizes a plurality of payment penalties.** Instead, Wolfberg discloses the monitoring program generates “a set of spending flexibility signals, indicating whether monetary inflows are suggested or outflows are permitted within the spending flexibility guidelines and while still meeting the investment guidelines” and “indicating whether investment adjustments are suggested for meeting the investment guidelines.” Thus, Wolfberg only vaguely suggests determining priorities and **does not teach (and is silent regarding) making a payment to savings despite investment and spending priorities, and even if the payment to savings may cause other accounts to incur penalties.** Furthermore, Wolfberg also does not teach **determining a payment hierarchy that minimizes payment penalties.**

Wardin discloses a billing system that can determine a late fee or penalty. See Para. 0013. The Wardin system can also “adjust due dates on the fly and update a customer service center.” Para. 0009. The Wardin system can adjust the due date for billing statements based

upon a formula, “for instance the due date can be set to be 30 days from the mailing of the billing statement” or “the due date may be adjusted based upon an amount owed or payment history of the customer. Para. 0009. Significantly, Wardin fails to disclose determining a payment hierarchy that **minimizes a plurality of payment penalties**. Instead, the Wardin system is limited to adjusting due dates for bills (i.e., invoices) being produced by the system.

King discloses a system that “facilitates the user in electronically ordering items from suppliers.” The King system includes private catalog functions that facilitate the procurement process by allowing “Customers to load, access and identify supplier products on their own local computer systems...” (Col. 2, lines 43-45). Significantly, King **fails to disclose making a payment to savings regardless of debt obligations or minimizing penalties associated with debt obligations**.

Applicants traverse the Official Notice taken by the Examiner on page 8 of the Office Action because “the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” MPEP 2144.03. Applicants therefore respectfully request that “the examiner provide documentary evidence in the next Office action if the rejection is to be maintained.” Id. Furthermore, the Examiner fails to take Official Notice of the combination of elements recited in the independent claims. Instead, the Examiner merely takes Official Notice that such general and broad functionality may exist.

Therefore, Wolfberg, Wardin, and King, neither alone nor in combination with each other, any cited reference, or with the Official Notice taken (even assuming it can be properly substantiated), fail to disclose or contemplate all of the following elements as recited in claim 1 (emphasis added) and as similarly recited in independent claims 10-11 :

determining, by said computer-based system **and in response to said transferring said savings amount**, a payment hierarchy based upon said savings amount, said plurality of penalties and at least one of: said payment information, said user savings goal information and said user income information, **wherein said payment hierarchy minimizes said plurality of penalties and includes a payment priority, a payment amount and a payment timing**; and

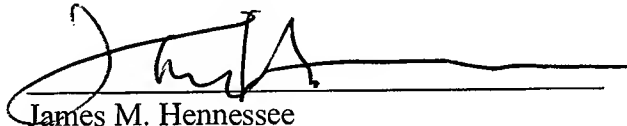
Applicant therefore respectfully submits that independent claims 1 and 10-11 are allowable over the cited references.

Dependent claims 3-8 variously depend from independent claim 1, so dependent claims 3-8 are allowable over the cited references for the reasons set forth above, in addition to their own unique features, some of which are stated above.

In view of the above remarks, Applicant respectfully submits that all pending claims properly set forth that Applicant regard as his invention and are allowable over the cited references. Accordingly, Applicant respectfully requests allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814.

Respectfully submitted,

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